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of the State of California
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

CROWLEY FAMILY PHARMACY)
25405 Hancock Avenue)
Suite 100)
Murrieta, CA 92562)

CASE NO. AC 2107

Pharmacy License)
No. PHY 41147)

and)

STIPULATION FOR
SURRENDER OF LICENSES

KENTON CROWLEY)
40970 Alton Court)
Temecula, CA 92591)

Pharmacist License)
No. RPH 38214)

Respondents.)

IT IS HEREBY STIPULATED by and between Crowley Family
Pharmacy and Kenton Crowley, the respondents in this proceeding
and the Board of Pharmacy, State of California, by and through
its attorney, Karen L. Gordon, Deputy Attorney General, that:

1 1. Crowley Family Pharmacy ("Respondent Pharmacy") and
2 Kenton Crowley ("Respondent Crowley") have received and read the
3 Accusation which is presently on file and pending in Case No. AC
4 2107 before the Board, a copy of which is attached hereto as
5 Exhibit A and incorporated herein.

6 2. Respondents are represented by counsel John
7 Cronin, Esq. in this matter. Respondents have fully and
8 completely discussed with their counsel the effects of this
9 Stipulation.

10 3. Respondents understand the nature of the charges
11 alleged in the Accusation and that, if proven at hearing, such
12 charges and allegations would constitute cause for imposing
13 discipline upon respondent pharmacy's license and respondent
14 Crowley's pharmacist's license issued by the Board.

15 4. Respondents admit the truth of each and every
16 factual allegation contained in the Accusation and further admit
17 that cause exists thereby to impose discipline against their
18 licenses, as set forth in the Accusation. If this matter had
19 gone to hearing, respondents would have presented evidence in
20 defense of the allegations contained in the Accusation.

21 5. Respondents are fully informed regarding the
22 provisions and effects of this stipulation, which respondents
23 have carefully read. Respondents are fully aware of their right
24 to a hearing on the charges contained in the Accusation, their
25 right to confront and cross-examine witnesses against them, their
26 right to reconsideration, appeal, and any and all other rights
27 which may be accorded them under the California Administrative
 Procedure Act (Government Code Section 11500 et seq.).

1 6. Respondents freely and voluntarily waive each and
2 every one of the rights set forth above.

3 7. Respondents understand that in signing this
4 stipulation rather than contesting the Accusation, they are
5 agreeing that the Board of Pharmacy of the State of California
6 may issue its order accepting the surrender of their licenses
7 without further legal process.

8 8. It is acknowledged by the parties that this
9 stipulation constitutes an offer in settlement to the Board of
10 Pharmacy and is not effective until adoption by the Board.

11 9. In the event this stipulation is not adopted by the
12 Board of Pharmacy, nothing herein recited shall be construed as a
13 waiver of respondents' right to a hearing or as an admission of
14 the truth of any of the matters charged in the Accusation.

15 10. The parties agree that the Stipulation recited
16 herein shall be null and void and not binding upon the parties
17 unless approved by the Board, except for this paragraph, which
18 shall remain in effect. The respondents understand and agree
19 that in deciding whether or not to adopt this Stipulation the
20 Board may receive oral and written communications from its staff
21 and the Attorney General's office. Communications pursuant to
22 this paragraph shall not disqualify the Board or other persons
23 from future participation in this or any other matter affecting
24 respondent. In the event the Board in its discretion does not
25 approve this settlement, this Stipulation, with the exception of
26 this paragraph, is withdrawn and shall be of no evidentiary value
27 and shall not be relied upon or introduced in any disciplinary

1 action by either party hereto. Respondents agree that should the
2 Board reject this Stipulation and if this case proceeds to
3 hearing, respondents will assert no claim that the Board was
4 prejudiced by its review and discussion of this Stipulation or of
5 any records related hereto.

6 11. The parties agree that facsimile copies of this
7 Stipulation, including facsimile signatures of the parties, may
8 be used in lieu of original documents and signatures. The
9 facsimile copies will have the same force and effect as
10 originals.

11 12. Respondents hereby surrender Pharmacy License No.
12 PHY 41147 and Pharmacist License No. RPH 38214 subject to the
13 Board's formal acceptance of said surrender. Upon acceptance of
14 the stipulation and surrender by the Board, respondents agree to
15 surrender and cause to be delivered to the Board their licenses
16 and for Respondent Crowley his wallet certificate as well.
17 Respondents further understand that when the Board accepts the
18 surrender of their licenses, they will no longer be permitted to
19 practice pharmacy in California.

20 13. Respondents fully understand and agree that in
21 acting upon any application for licensure, relicensure, or
22 reinstatement which respondents ever file in the State of
23 California or in any other state, respondents' admissions herein
24 may be used by the licensing agency in acting on such
25 application.

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1 14. Respondents fully understand and agree that they
2 shall not be eligible to either reapply or petition for the
3 reinstatement of their pharmacy and pharmacist licenses for at
4 least three (3) years from the effective date of the Board's
5 decision.

6 15. Respondents also agree that prior to their
7 petitioning for reinstatement of their pharmacy and pharmacist
8 licenses or their reapplication for licensure, respondents shall
9 pay costs to the Board for investigation and prosecution of this
10 case.

11 16. Respondent Kenton Crowley understands that if he
12 reapplies or petitions for the reinstatement of his pharmacist
13 license, he shall not resume the practice of pharmacy until he
14 takes and passes the pharmacist's licensure examination.

15 17. If Respondent Crowley Family Pharmacy desires to
16 sell its interest in the pharmacy, the surrender of its license
17 will be stayed for 90 days from the effective date of this
18 decision to allow the sale of the pharmacy. Any proposed sale of
19 Crowley Family Pharmacy must be approved by the Board of Pharmacy
20 prior to the sale. At the conclusion of the 90 days from the
21 effective date of this decision, the surrender of Pharmacy
22 License No. PHY 41147 will be accepted by the Board.

23 18. The costs incurred by the Board for the
24 investigation and enforcement of this case total \$29,426.25.
25 Payment by respondents of the cost recovery sum of \$29,426.25
26 shall be deferred unless and until respondent Kenton Crowley, or
27 any entity of which he is or will be an officer, director,
associate, partner, owner, qualifier, or other personnel of

1 record, shall apply for reinstatement or relicensure, in any
2 capacity, to the Board of Pharmacy, at which time, should the
3 Board grant respondent Kenton Crowley a license, payment of the
4 above cost recovery amount shall be a condition precedent to
5 issuance of any such license.

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ACKNOWLEDGEMENT

I, Kenton Crowley, hereby certify that I have read this Stipulation in its entirety. I have discussed the terms and conditions set forth in the Stipulation and Order with my attorney, John Cronin, Esq. I enter into the Stipulation freely, voluntarily, intelligently, on advice of counsel, and with full knowledge of its force and effect. I understand that in signing this Stipulation I am waiving my right to a hearing on the charges set forth in the Accusation on file in this matter. I do hereby voluntarily surrender my certificates of licensure, Pharmacist License No. RPH 38214 and Pharmacy License No. PHY 41147, to the Board of Pharmacy, for its acceptance. I recognize that upon formal acceptance of this Stipulation by the Board, I will lose all rights and privileges to practice as a pharmacist or operate a pharmacy in the State of California. I agree that a facsimile copy of this Stipulation, including a facsimile copy of my signature may be used with the same force and effect as the originals.

DATED: 2/5/99



KENTON CROWLEY
Respondent



KENTON CROWLEY, Owner and
Authorized Representative of
CROWLEY FAMILY PHARMACY
Respondent


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ENDORSEMENT

I concur in the above stipulation.

DATED: 2-23-99


BILL LOCKYER, Attorney General
of the State of California



KAREN L. GORDON
Deputy Attorney General

Attorneys for Complainant

DATED: 2/12/99



JOHN A. CRONIN
Attorney for Respondents

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ORDER OF THE BOARD OF PHARMACY

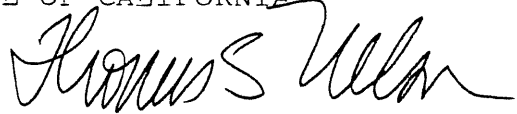
The surrender of Pharmacy License No. PHY 41147 by respondent, Crowley Family Pharmacy, and Pharmacist License No. RPH 38214 by respondent, Kenton Crowley, is accepted, on the terms set forth in the Stipulation For Surrender of License, by the Board of Pharmacy of the State of California.

This decision shall become effective on the 6th day of July, 1999.

IT IS SO ORDERED this 7th day of June, 1999.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



THOMAS S. NELSON
Board President

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 KAREN L. GORDON
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation) CASE NO. AC 2107
12 Against:)
13 CROWLEY FAMILY PHARMACY) A C C U S A T I O N
25405 Hancock Avenue)
14 Suite 100)
Murrieta, CA 92562)
15 Pharmacy License)
16 No. PHY 41147)
17 and)
18 KENTON CROWLEY)
40970 Alton Court)
19 Temecula, CA 92591)
20 Pharmacist License)
No. RPH 38214)
21 Respondents.)
22

23 Complainant Patricia F. Harris, who as cause for
24 disciplinary action, alleges:

25 **PARTIES**

26 1. Complainant is the Executive Officer of the
27 California State Board of Pharmacy ("Board") and makes and files
this accusation solely in her official capacity.

1 License Status

2 2. On or about September 18, 1995, the Board of
3 Pharmacy issued Pharmacy License No. PHY 41147 to Crowley Family
4 Pharmacy (hereinafter "Respondent Pharmacy"). This license was
5 in full force and effect at all relevant times herein and will
6 expire on September 1, 1999, unless renewed.

7 3. On or about September 29, 1983, the Board of
8 Pharmacy issued Pharmacist License No. RPH 38214 to Kenton
9 Crowley ("Respondent Crowley"). This license was in full force
10 and effect at all relevant times herein and will expire on
11 September 30, 1999, unless renewed.

12 JURISDICTION

13 3. This accusation is made in reference to the
14 following statutes of the California Business and Professions
15 Code:

16 A. Section 4059(a) states that no person shall
17 furnish any dangerous drug, except upon a prescription.

18 B. Section 4059.5 prohibits dangerous drugs from
19 being transferred, sold, or delivered outside this
20 state unless done in compliance with California laws.

21 C. Section 4301 states that the board shall take
22 action against any license holder who is guilty of
23 unprofessional conduct including, but not limited to:

24 (f) The Commission of any act involving moral
25 turpitude, dishonesty, fraud, deceit, or
26 corruption.

27 / / /

1 (h) The administering to oneself, of any controlled
2 substance, or the use of any dangerous drug to
3 the extent or in a manner as to be dangerous
4 or injurious to oneself, or to any other person
5 or to the public, or to the extent that the use
6 impairs the ability of the person to conduct
7 with safety to the public the practice authorized
8 by the license.

9 (j) The violation of any of the statutes of this
10 state or of the United States regulating
11 controlled substances and dangerous drugs.

12 (n) Violating any provision or terms of this
13 chapter or of the applicable federal and
14 state laws and regulations governing
15 pharmacy.

16 D. Section 4306.5 states that unprofessional
17 conduct for a pharmacist may include acts or omissions
18 that involve, in whole or in part, the exercise of his
19 education, training, or experience as a pharmacist,
20 whether or not the act or omission arises in the course
21 of the practice of pharmacy or the ownership,
22 management, administration, or operation of a pharmacy
23 or other entity licensed by the board.

24 E. Section 4327 provides that any person who, while
25 on duty, sells, dispenses or compounds any drug while under
26 the influence of any dangerous drug shall be guilty of a
27 misdemeanor.

1 F. Section 4350 provides that every certificate,
2 license, permit, registration or exemption issued by
3 the Board may be suspended or revoked.

4 G. Section 4359 provides that the Board may
5 discipline a license holder who has been found guilty
6 by placing him on probation, suspending his right to
7 practice for a period not exceeding one year, revoking
8 his license, or taking such other action as the board
9 in its discretion may deem proper.

10 H. Section 125.3 provides, in part, that the Board
11 may request the administrative law judge to direct any
12 licentiate found to have committed a violation or violations
13 of the licensing act, to pay the Board a sum not to exceed
14 the reasonable costs of the investigation and enforcement of
15 the case.

16 4. This accusation is made in reference to the
17 following regulations of the California Penal Code:

18 A. Section 1000 states that the court may set a
19 hearing for deferred entry of judgment if a defendant is
20 found eligible following a charge of being under the
21 influence of a controlled substance.

22 B. Section 1000.2 indicates that the court shall hold
23 a hearing and, after consideration of any information
24 relevant to its decision, shall determine if the defendant
25 should be granted deferred entry of judgment. If the court
26 does not deem the defendant a person who would be benefitted
27 by deferred entry of judgment, or if the defendant does not

1 consent to participate, the proceedings shall continue as in
2 any other case.

3 5. This accusation is made in reference to the
4 following regulations of the California Code of Regulations,
5 Title 16:

6 A. Section 1716 states that pharmacists shall not
7 deviate from the requirements of a prescription except upon
8 the prior consent of the prescriber or to select the drug
9 product in accordance with Section 4047.6 of the Business
10 and Professions Code.

11 B. Section 1770 provides that for the purpose of
12 denial, suspension, or revocation of a personal or
13 facility license, a crime or act shall be considered
14 substantially related to the qualifications, functions
15 or duties of a licensee or registrant if to a
16 substantial degree it evidences present or potential
17 unfitness of a licensee or registrant to perform the
18 functions authorized by his license or registration in a
19 manner consistent with the public health, safety, or
20 welfare.

21 6. This accusation is made in reference to the
22 following regulations of the California Health and Safety Code:

23 A. Section 11170 states that no person shall
24 prescribe, administer, or furnish a controlled substance for
25 himself.
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FACTS

7. Respondent Crowley Family Pharmacy and Respondent Kenton Crowley have subjected their licenses to discipline as set forth in paragraphs 8 through 10 below.

8. On or about May 21, 1997, the Board received complaints of numerous violations of the pharmacy law by Respondent Crowley Family Pharmacy and Respondent Kenton Crowley. On June 2, 1997, Pharmacy Board Inspectors conducted an investigation of Crowley Family Pharmacy. The investigation and an audit of Respondent Crowley Family Pharmacy revealed 25 separate violations of the Pharmacy Act by Respondent Pharmacy and Respondent Crowley. Respondent Pharmacy acted as a manufacturer without proper licensure from the U.S. Food and Drug Administration. Respondent Pharmacy acted as a wholesaler without proper licensure from the Board. Respondents Crowley and Pharmacy provided dangerous drugs, including controlled substances, to persons without prescriptions from authorized prescribers. Respondents Crowley and Pharmacy provided dangerous drugs, including controlled substances, to prescribers without proper sales records. Respondents Crowley and Pharmacy transferred, sold, or delivered dangerous drugs to persons not licensed or authorized to receive or order dangerous drugs. Respondents Crowley and Pharmacy refilled prescriptions without authorizations from authorized prescribers. Respondents Crowley and Pharmacy allowed persons other than a pharmacist to reduce to writing orally transmitted prescriptions for dangerous drugs, including controlled substances. Respondents Crowley and

1 Pharmacy substituted generic products rather than brand products
2 to dispense on prescriptions despite indications by prescribers
3 that such substitution was not permissible. Respondents Crowley
4 and Pharmacy dispensed prescriptions in containers that did not
5 meet the requirements of state law and were incorrectly labeled.
6 Respondents Crowley and Pharmacy furnished compounded dangerous
7 drugs without proper warning labeling. Respondents Crowley and
8 Pharmacy did not properly maintain records of acquisition or
9 disposition of dangerous drugs and did not maintain a current
10 inventory. Respondents Crowley and Pharmacy could not provide
11 the names of employee pharmacists and their employment dates.
12 Respondents Crowley and Pharmacy allowed pharmacy technicians to
13 perform packaging without assistance, supervision and control of
14 a pharmacist. Respondents Crowley and Pharmacy allowed a person
15 to act as a pharmacy technician without being registered with the
16 Board. Respondents Crowley and Pharmacy furnished dangerous
17 drugs to patients other than what was prescribed for them.
18 Respondents Crowley and Pharmacy exceeded the amount of
19 "reasonable quantities" when compounding unapproved drugs for
20 prescriber office use. Respondents Crowley and Pharmacy did not
21 maintain accurate records of compounded items made for future
22 furnishing. Respondents Crowley and Pharmacy did not maintain
23 accurate, readily retrievable information as to which pharmacist
24 checked prescriptions filled by pharmacy technicians.
25 Respondents Crowley and Pharmacy did not annually certify the
26 laminar flow hood used for compounding. Respondents Crowley and
27 Pharmacy did not properly store pharmaceuticals in an aseptic

1 environment. Respondents Crowley and Pharmacy filled
2 prescriptions which contained significant omissions and
3 uncertainties, without notation of contacting the prescriber for
4 clarification. Respondents Crowley and Pharmacy did not develop
5 written policies and procedures for pharmacy technicians.
6 Respondents Crowley and Pharmacy possessed more controlled
7 substances than were accounted for. Respondents Crowley and
8 Pharmacy utilized DEA-222 order forms in an improper manner.
9 Respondent Crowley falsely made prescriptions for dangerous
10 drugs, including controlled substances.

11 9. On February 19, 1997, Respondent Pharmacy and
12 Respondent Crowley dispensed the wrong medication, Promethazine
13 50mg/ml instead of Prochlorperazine 5mg/ml, to customer M.L. M.L.
14 became very ill and suffered a seizure following the drug error.
15 Respondent Pharmacy and Respondent Crowley dispensed medication
16 other than what was prescribed for customer M.L. in violation of
17 California Code of Regulations, Title 16, section 1716. This
18 constitutes unprofessional conduct as defined in Business and
19 Professions Code section 4301 (n).

20 10. On or about February 24, 1998, Respondent Pharmacy
21 and Respondent Crowley provided dangerous drugs, including
22 controlled substances, to persons without prescriptions from
23 authorized prescribers and sent controlled substances out of
24 state without prescriptions in violation of Business and
25 Professions Code sections 4059(a) and 4059.5. This constitutes
26 unprofessional conduct as defined in Business and Professions
27 Code section 4301 (f), (j), and (n).

1 11. Respondent Kenton Crowley has subjected his
2 license to discipline as set forth in paragraphs 12 through 15
3 below.

4 12. On October 15, 1997, Respondent Kenton Crowley was
5 found to be under the influence of controlled substances
6 (Morphine and Benzodiazepines) not prescribed for him, within the
7 Crowley Family Pharmacy premises while working as a pharmacist in
8 violation of Business and Professions Code section 4327 and
9 Health and Safety Code section 11170. This constitutes
10 unprofessional conduct as defined in Business and Professions
11 Code section 4301 (h), (j), and (n).

12 13. On October 15, 1997, Respondent Crowley was
13 arrested for being under the influence of controlled substances
14 while working as a pharmacist. Respondent was not convicted of
15 being under the influence of controlled substances following this
16 arrest because he was granted a deferred entry of judgment to
17 allow him to participate in a drug diversion program pursuant to
18 Penal Code sections 1000 and 1000.2.

19 14. On August 7, 1998, Respondent Crowley self-
20 administered Demerol, a controlled substance, resulting in a
21 nearly fatal overdose. Respondent was admitted to Sharp Murrieta
22 Medical Center and revived.

23 15. Respondent was arrested on August 7, 1998 for
24 possession of controlled substances. Respondent Crowley's
25 conduct violated Health and Safety Code section 11170 and
26 constituted unprofessional conduct as defined in Business and
27 Professions Code section 4301 (h), (j), and (n).

1 PRAYER

2 WHEREFORE, complainant requests that the Board hold a
3 hearing on the matters alleged herein, and that following said
4 hearing, the Board issue a decision:

- 5 1. Revoking or suspending Pharmacy Number PHY 41147,
6 heretofore issued to Respondent Crowley Family
7 Pharmacy;
8 2. Revoking or suspending Pharmacist Number RPH
9 38214, heretofore issued to Respondent Kenton
10 Crowley;
11 3. Directing Respondents Crowley Family Pharmacy and
12 Kenton Crowley to pay to the Board a reasonable
13 sum for its investigative and enforcement costs of
14 this action; and
15 4. Taking such other and further action as the Board
16 deems appropriate to protect the public health,
17 safety and welfare.

18 DATED: September 3, 1998

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20
21 Patricia F. Harris

22 PATRICIA F. HARRIS
23 Executive Officer *Mal*
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California

27 Complainant